

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI

OXFORD UNIVERSITY BANK

PLAINTIFF

VS.

ADVERSARY NO. 19-01069-SDM

MICHAEL G. HARRIS, II

DEFENDANT/COUNTER-PLAINTIFF/
THIRD PARTY PLAINTIFF

AND

JIM CASSIDY, INDIVIDUALLY, AND
JIM CASSIDY CONSTRUCTION, LLC

THIRD PARTY DEFENDANTS

RESPONSE TO MOTION TO DISMISS COUNTER-CLAIM AND MOTION TO
DISMISS CROSS-CLAIM BY OXFORD UNIVERSITY BANK

COMES NOW the Defendant/Counter-Plaintiff/Third Party Plaintiff, Michael G. Harris, II, by and through the undersigned attorneys of record, and submits this, his *Response to Motion to Dismiss Counter-Claim and Motion to Dismiss Cross-Claim by Oxford University Bank*, and in support thereof would show unto this Honorable Court as follows:

1. Oxford University Bank (hereinafter “OUB”) has requested that this Honorable Court dismiss the Counter-Claim¹ against it and the Cross-Claim against the Cassidy Defendants.

¹ Mr. Harris's claims against the Jim Cassidy Defendants were referred to as “Third Party Claims” by Mr. Harris and “Cross-Claims” by OUB. Regardless of title, these refer to the same claims.

2. OUB has presented no argument or citation to authority in support of its request that this Court dismiss the Counter-Claim against it.

3. Therefore, this request must be denied. If OUB wishes to proceed with a request to dismiss the Counter-Claim against it, Mr. Harris affirmatively requests that this Honorable Court require OUB to set forth specific facts and arguments as basis for its request for dismissal and provide Mr. Harris an opportunity to respond to the same.

4. OUB requests that the claims against the Jim Cassidy Defendants should be dismissed, citing F.R.C.P. 14(a)(4) and alleging that Mr. Harris was required to seek leave of this Court to proceed with a Third Party Claim. OUB's argument is unfounded and not supported by F.R.C.P. 14 for reasons fully briefed in the *Memorandum of Law* filed simultaneously herewith.

5. Therefore, Mr. Harris affirmative requests that this Honorable Court deny OUB's requests for dismissal of the Third Party Claim as well.

6. Mr. Harris incorporates by reference his *Memorandum of Law* filed simultaneously herewith.

WHEREFORE, PREMISES CONSIDERED, Mr. Harris respectfully requests that this Honorable Court deny OUB's *Motion to Dismiss*

in total. Mr. Harris also requests such other and further relief to which he may be entitled under the premises.

Respectfully submitted, this the 23rd day of March, 2020.

MICHAEL G. HARRIS, DEFENDANT/
COUNTER-PLAINTIFF/THIRD PARTY
PLAINTIFF

BY: /s/ David E. Rozier, Jr.
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CERTIFICATE OF SERVICE

I, the undersigned, one of the attorneys for Michael G. Harris, II, do hereby certify that I have this day filed the foregoing pleading which sent notice of filing to the following:

Jeffrey A. Livingston
Trustee

William F. Schneller
Counsel for OUB

Larry O. Lewis
Counsel for the Jim Cassidy Defendants

United States Trustee

This the 23rd day of March, 2020.

/s/ David E. Rozier, Jr.